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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,241	07/06/2001	Andrew Kerr	Kerr-5	5997
1218	7590	07/01/2005	EXAMINER	
CASELLA & HESPOS 274 MADISON AVENUE NEW YORK, NY 10016			BLANCO, JAVIER G	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 07/01/2005

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Group 3700

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/900,241
Filing Date: July 06, 2001
Appellant(s): KERR, ANDREW

MAILED

.III

Group 3700

Andrew Kerr
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed April 14, 2005.

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(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement that there are no related appeals and interferences is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the only issue in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that independent claim 25 and its dependent claim 3 are believed to stand or fall together.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

US 5,800,526 A

Anderson et al.

September 1, 1998

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

(1) Claims 3 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson et al. (US 5,800,526 A). The rejection below is as set forth in a prior Office Action, mailed on December 28, 2004:

As seen in Figures 9, 10, and 12, Anderson et al. disclose an endovascular stent/graft assembly comprising stent means (stent 56 and stent 58) having opposite first and second axial ends, and graft means (graft 52) having first and second axial ends directly contacting first and second relatively healthy sections of a blood vessel (graft is bridging an aneurysm). The first axial end of graft 52 is fixedly connected with the second axial end of stent 58 *for achieving* (emphasis added to functional language) a substantially end-to-end connection (see figures; see entire document). Said end-to-end connection may include overlapping (see Figures 9, 10, and 12) and the use of an adhesive (see column 11, lines 1-10 and lines 57-60). Said end-to-end connection is also disclosed/described by Anderson et al. as an end-to-end connection without overlap (= "butt joint": see column 11, lines 10-14). It should be noted that Merriam-Webster dictionary defines "butt joint" as "*a joint made by fastening the parts together end-to-end without overlap and often with reinforcement*" (this was addressed in the last Office Action). Anderson et al. further disclose/describe: "*At least a portion of stents 56, 58 extend out of graft 52, and if the stents and graft are joined by a butt joint, then substantially all of the stent will extend out of the graft*" (see column 11, lines 10-14). Said teaching further corroborates/validates the dictionary definition of "butt joint". In other words, Anderson et al. disclosure describes two end-to-end connections embodiments: (i) a lap joint (i.e., joint made by overlapping two ends) as

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shown in “*At least a portion of stents 56, 58 extend out of graft 52*”, or (ii) a butt joint (i.e., joint made by fastening the parts together end-to-end without overlap) as shown in “*and if the stents and graft are joined by a butt joint, then substantially all of the stent will extend out of the graft*”.

With regards to newly added claim limitation: “whereby the end-to-end connection without overlap enables a smaller cross-section than a connection with overlap so that the endovascular stent/graft assembly can be introduced more easily into the blood vessel”, it should be noted:

- a. Anderson et al. disclose in column 10, lines 2-5 and lines 8-10 the stent/graft assembly as having a small cross-section for ease of introducing into a blood vessel.
- b. Given that Anderson et al. disclose/describe a stent/graft assembly comprising the claimed limitations set forth in claims 25 and 3 (specifically the “butt joint” connection between the stent(s) and the graft), it will be inherent that it will perform as indicated in the newly added functional language. Therefore, the “butt joint” connection of the stent/graft assembly of Anderson et al. will enable a smaller cross-section allowing the stent/graft assembly to be introduced more easily into the blood vessel.
- c. Claims in a pending application should be given their broadest reasonable interpretation. *In re* Pearson, 181 USPQ 641 (CCPA 1974).

(11) Response to Argument

A. The Examiner conducted a word search for “butt joint” in www.onelook.com dictionary search.

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(i) Several general-purpose dictionaries define “butt joint” as: (i) *“a joint made by fastening the parts together end-to-end without overlap”*, and as (ii) *“a joint formed by two abutting surfaces placed squarely together”*.

(ii) A tech dictionary defines “butt joint” as *“a weld where the two panels are not overlapped but fit against each other end to end”*.

(iii) An art dictionary defines “butt” as *“to adjoin without overlapping, as for example, two pieces of film or other material, or two colors of ink”*.

B. The Examiner conducted a word search for “lap joint” in www.onelook.com dictionary search. Several general-purpose dictionaries define “lap joint” as *“a joint made by overlapping two ends or edges and fastening them together”*.

C. The Examiner conducted an EAST word/text search for “butt joint”. Several documents in the medical art showed the same definition for a “butt joint”. Some examples are:

(i) As seen in Figure 15, US 5,928,281 teaches a heart valve with a butt joint 122 (see column 10, lines 49-56, claims 12 and 27). The reference teaches said butt joint provides a slimmer profile for the heart valve (see entire document).

(ii) As seen in Figure 12, US 6,565,599 teaches a stent having a link 90 attached to a metal ring by joint. The reference distinguished between a lap joint versus a butt joint (see column 7, lines 46-50).

D. While the Applicant referred to examples of “butt joints”, those examples look different from the definition of “butt joint” the Examiner is relying on. The Applicant has not used a definition of a “butt joint” different than that of Anderson et al. ‘526. The Examiner maintains that the “butt joint” of Anderson et al. is an end-to-end connection without overlap.

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E. Anderson et al disclose/describe: *“At least a portion of stents 56, 58 extend out of graft 52, and if the stents and graft are joined by a butt joint, then substantially all of the stent will extend out of the graft”* (see column 11, lines 10-14). In other words, Anderson et al. disclosure describes two end-to-end connections embodiments: (i) a lap joint (i.e., joint made by overlapping two ends) as shown in *“At least a portion of stents 56, 58 extend out of graft 52”*, or (ii) a butt joint (i.e., joint made by fastening the parts together end-to-end without overlap) as shown in *“and if the stents and graft are joined by a butt joint, then substantially all of the stent will extend out of the graft”*. These teachings clearly read on the functional language “for achieving an end-to-end connection without overlap” as claimed in claim 25.

F. Anderson et al. '526 disclose in column 10, lines 2-5 and lines 8-10 the stent/graft assembly as having a small cross-section for ease of introducing into a blood vessel. Given that Anderson et al. disclose/describe a stent/graft assembly comprising the claimed limitations set forth in claims 25 and 3 (specifically the “butt joint” connection between the stent(s) and the graft), it will be inherent that it will perform as indicated in the newly added functional language. Therefore, the “butt joint” connection of the stent/graft assembly of Anderson et al. will enable a smaller cross-section allowing the stent/graft assembly to be introduced more easily into the blood vessel.

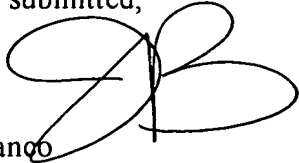
For the above reasons, it is believed that the rejection should be sustained.

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Respectfully submitted,

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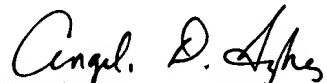
Javier G. Blanco

June 22, 2005

Conferees :

A handwritten signature in black ink, appearing to read 'Corrine McDermott' with a decorative flourish at the end.

Corrine McDermott (SPE A.U. 3738)

A handwritten signature in black ink, appearing to read 'Angela D. Sykes' with a decorative flourish at the end.

Angela Sykes (SPE A.U. 3762)

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